

1                   A bill to be entitled  
2     An act relating to environmental enforcement; amending  
3     s. 161.054, F.S.; revising administrative penalties  
4     for violations of certain provisions relating to beach  
5     and shore construction and activities; making  
6     technical changes; amending ss. 258.397, 258.46,  
7     373.129, 376.16, 376.25, 377.37, 378.211, and 403.141,  
8     F.S.; revising civil penalties for violations of  
9     certain provisions relating to the Biscayne Bay  
10    Aquatic Preserve, aquatic preserves, water resources,  
11    the Pollutant Discharge Prevention and Control Act,  
12    the Clean Ocean Act, regulation of oil and gas  
13    resources, the Phosphate Land Reclamation Act, and  
14    other provisions relating to pollution and the  
15    environment, respectively; providing that each day  
16    that certain violations occur constitutes a separate  
17    offense; making technical changes; amending ss.  
18    373.209, 376.065, 376.071, 403.086, 403.413, 403.7234,  
19    and 403.93345, F.S.; revising civil penalties for  
20    violations of certain provisions relating to artesian  
21    wells, terminal facilities, discharge contingency  
22    plans for vessels, sewage disposal facilities, dumping  
23    litter, small quantity generators, and coral reef  
24    protection, respectively; making technical changes;  
25    amending ss. 373.430 and 403.161, F.S.; revising

26 criminal penalties for violations of certain  
27 provisions relating to pollution and the environment;  
28 providing that each day that the cause of unauthorized  
29 discharges of domestic wastewater is not addressed  
30 constitutes a separate offense; making technical  
31 changes; amending s. 403.121, F.S.; revising civil and  
32 administrative penalties for violations of certain  
33 provisions relating to pollution and the environment;  
34 providing that each day that the cause of unauthorized  
35 discharges of domestic wastewater is not addressed  
36 constitutes a separate offense; increasing the amount  
37 of penalties that can be assessed administratively;  
38 making technical changes; amending ss. 403.726 and  
39 403.727, F.S.; revising civil penalties for violations  
40 of certain provisions relating to hazardous waste;  
41 making technical changes; reenacting s. 823.11(5),  
42 F.S., to incorporate the amendment made to s. 376.16,  
43 F.S., in a reference thereto; reenacting ss.  
44 403.077(5), 403.131(2), 403.4154(3)(d), and  
45 403.860(5), F.S., to incorporate the amendment made to  
46 s. 403.121, F.S., in a reference thereto; reenacting  
47 ss. 403.708(10), 403.7191(7), and 403.811, F.S., to  
48 incorporate the amendment made to s. 403.141, F.S., in  
49 a reference thereto; reenacting s. 403.7186(8), F.S.,  
50 to incorporate the amendment made to ss. 403.141 and

CS/CS/HB 1091

2020

403.161, F.S., in references thereto; reenacting s.  
403.7255(2), F.S., to incorporate the amendment made  
to s. 403.161, F.S., in a reference thereto; providing  
an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 161.054, Florida  
Statutes, is amended to read:

161.054 Administrative fines; liability for damage;  
liens.—

(1) In addition to the penalties provided for in ss.  
161.052, 161.053, and 161.121, any person, firm, corporation, or  
governmental agency, or agent thereof, refusing to comply with  
or willfully violating ~~any of the provisions of~~ s. 161.041, s.  
161.052, or s. 161.053, or any rule or order prescribed by the  
department thereunder, shall incur a fine for each offense in an  
amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected  
by the department. Each day during any portion of which such  
violation occurs constitutes a separate offense.

Section 2. Subsection (7) of section 258.397, Florida  
Statutes, is amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(7) ENFORCEMENT.—~~The provisions of~~ This section may be  
enforced in accordance with ~~the provisions of~~ s. 403.412. In

CS/CS/HB 1091

2020

76 addition, the Department of Legal Affairs may ~~is authorized to~~  
77 bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day  
78 against any person, natural or corporate, who violates the  
79 ~~provisions of~~ this section or any rule or regulation issued  
80 hereunder. Each day during any portion of which such violation  
81 occurs constitutes a separate offense. Enforcement of applicable  
82 state regulations shall be supplemented by the Miami-Dade County  
83 Department of Environmental Resources Management through the  
84 creation of a full-time enforcement presence along the Miami  
85 River.

86 Section 3. Section 258.46, Florida Statutes, is amended to  
87 read:

88 258.46 Enforcement; violations; penalty. ~~The provisions of~~  
89 This act may be enforced by the Board of Trustees of the  
90 Internal Improvement Trust Fund or in accordance with ~~the~~  
91 ~~provisions of~~ s. 403.412. However, any violation by any person,  
92 natural or corporate, of ~~the provisions of~~ this act or any rule  
93 or regulation issued hereunder is ~~shall be~~ further punishable by  
94 a civil penalty of not less than \$750 ~~\$500~~ per day or more than  
95 \$7,500 ~~\$5,000~~ per day of such violation. Each day during any  
96 portion of which such violation occurs constitutes a separate  
97 offense.

98 Section 4. Subsections (5) and (7) of section 373.129,  
99 Florida Statutes, are amended to read:

100 373.129 Maintenance of actions.—The department, the

CS/CS/HB 1091

2020

governing board of any water management district, any local board, or a local government to which authority has been delegated pursuant to s. 373.103(8), is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes:

(5) To recover a civil penalty for each offense in an amount not to exceed \$15,000 ~~\$10,000~~ per offense. Each date during which such violation occurs constitutes a separate offense.

(a) A civil penalty recovered by a water management district pursuant to this subsection shall be retained and used exclusively by the water management district that collected the money. A civil penalty recovered by the department pursuant to this subsection must be deposited into the Water Quality Assurance Trust Fund established under s. 376.307.

(b) A local government that is delegated authority pursuant to s. 373.103(8) may deposit a civil penalty recovered pursuant to this subsection into a local water pollution control program trust fund, notwithstanding ~~the provisions of~~ paragraph

(a). However, civil penalties that are deposited in a local water pollution control program trust fund and that are recovered for violations of state water quality standards may be used only to restore water quality in the area that was the subject of the action, and civil penalties that are deposited in

126 a local water pollution control program trust fund and that are  
127 recovered for violation of requirements relating to water  
128 quantity may be used only to purchase lands and make capital  
129 improvements associated with surface water management, or other  
130 purposes consistent with the requirements of this chapter for  
131 the management and storage of surface water.

132 (7) To ~~enforce the provisions of~~ part IV of this chapter  
133 in the same manner and to the same extent as provided in ss.  
134 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

135 Section 5. Subsection (3) of section 373.209, Florida  
136 Statutes, is amended to read:

137 373.209 Artesian wells; penalties for violation.—

138 (3) Any person who violates ~~any provision of~~ this section  
139 is ~~shall be~~ subject to either:

140 (a) The remedial measures provided for in s. 373.436; or

141 (b) A civil penalty of \$150 ~~\$100~~ a day for each and every  
142 day of such violation and for each and every act of violation.  
143 The civil penalty may be recovered by the water management board  
144 of the water management district in which the well is located or  
145 by the department in a suit in a court of competent jurisdiction  
146 in the county where the defendant resides, in the county of  
147 residence of any defendant if there is more than one defendant,  
148 or in the county where the violation took place. The place of  
149 suit shall be selected by the board or department, and the suit,  
150 by direction of the board or department, shall be instituted and

CS/CS/HB 1091

2020

151 conducted in the name of the board or department by appropriate  
152 counsel. The payment of any such damages does not impair or  
153 abridge any cause of action which any person may have against  
154 the person violating ~~any provision of~~ this section.

155 Section 6. Subsections (2) through (5) of section 373.430,  
156 Florida Statutes, are amended to read:

157 373.430 Prohibitions, violation, penalty, intent.—

158 (2) A person who ~~Whoever~~ commits a violation specified in  
159 subsection (1) is liable for any damage caused and for civil  
160 penalties as provided in s. 373.129.

161 (3) A ~~Any~~ person who willfully commits a violation  
162 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of  
163 the third degree, punishable as provided in ss. 775.082(3)(e)  
164 and 775.083(1)(g), by a fine of not more than \$50,000 or by  
165 imprisonment for 5 years, or by both, for each offense. Each day  
166 during any portion of which such violation occurs constitutes a  
167 separate offense.

168 (4) A ~~Any~~ person who commits a violation specified in  
169 paragraph (1)(a) or paragraph (1)(b) due to reckless  
170 indifference or gross careless disregard commits ~~is guilty of~~ a  
171 misdemeanor of the second degree, punishable as provided in ss.  
172 775.082(4)(b) and 775.083(1)(g), by a fine of not more than  
173 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

174 (5) A ~~Any~~ person who willfully commits a violation  
175 specified in paragraph (1)(b) or who commits a violation

CS/CS/HB 1091

2020

specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in ss. 775.082(4)(a) and 775.083(1)(g), by a fine of not more than \$10,000 or by 6 months in jail, or by both, for each offense.

Section 7. Paragraphs (a) and (e) of subsection (5) of section 376.065, Florida Statutes, are amended to read:

376.065 Operation of terminal facility without discharge prevention and response certificate prohibited; penalty.—

(5)(a) A person who violates this section or the terms and requirements of such certification commits a noncriminal infraction. The civil penalty for any such infraction shall be \$750 ~~\$500~~, except as otherwise provided in this section.

(e) A person who elects to appear before the county court or who is required to so appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$750 ~~\$500~~.

Section 8. Paragraphs (a) and (e) of subsection (2) of section 376.071, Florida Statutes, are amended to read:

376.071 Discharge contingency plan for vessels.—

(2)(a) A master of a vessel that violates subsection (1) commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.



CS/CS/HB 1091

2020

(e) A person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$7,500 ~~\$5,000~~.

Section 9. Section 376.16, Florida Statutes, is amended to read:

376.16 Enforcement and penalties.—

(1) It is unlawful for any person to violate ~~any provision of~~ ss. 376.011-376.21 or any rule or order of the department made pursuant to this act. A violation is ~~shall be~~ punishable by a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day to be assessed by the department. Each day during any portion of which the violation occurs constitutes a separate offense. The penalty provisions of this subsection do ~~shall~~ not apply to any discharge promptly reported and removed by a person responsible, in accordance with the rules and orders of the department, or to any discharge of pollutants equal to or less than 5 gallons.

(2) In addition to the penalty provisions which may apply under subsection (1), a person responsible for two or more discharges of any pollutant reported pursuant to s. 376.12 within a 12-month period at the same facility commits a noncriminal infraction and shall be cited by the department for such infraction.

CS/CS/HB 1091

2020

(a) For discharges of gasoline or diesel over 5 gallons, the civil penalty for the second discharge shall be \$750 ~~\$500~~ and the civil penalty for each subsequent discharge within a 12-month period shall be \$1,500 ~~\$1,000~~, except as otherwise provided in this section.

(b) For discharges of any pollutant other than gasoline or diesel, the civil penalty for a second discharge shall be \$3,750 ~~\$2,500~~ and the civil penalty for each subsequent discharge within a 12-month period shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this section.

(3) A person responsible for two or more discharges of any pollutant reported pursuant to s. 376.12 within a 12-month period at the same facility commits a noncriminal infraction and shall be cited by the department for such infraction.

(a) For discharges of gasoline or diesel equal to or less than 5 gallons, the civil penalty shall be \$75 ~~\$50~~ for each discharge subsequent to the first.

(b) For discharges of pollutants other than gasoline or diesel equal to or less than 5 gallons, the civil penalty shall be \$150 ~~\$100~~ for each discharge subsequent to the first.

(4) A person charged with a noncriminal infraction pursuant to subsection (2) or subsection (3) may:

(a) Pay the civil penalty;

(b) Post a bond equal to the amount of the applicable civil penalty; or

(c) Sign and accept a citation indicating a promise to appear before the county court.

The department employee authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(5) Any person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) After compliance with paragraph (4)(b) or paragraph (4)(c), any person charged with a noncriminal infraction under subsection (2) or subsection (3) may:

(a) Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or

(b) If the person has posted bond, forfeit the bond by not appearing at the designated time and location.

A person cited for an infraction under this section who pays the civil penalty or forfeits the bond has admitted the infraction and waives the right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceeding.

(7) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalties specified in subsection (2). The court, after a

hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is proved, the court may impose a civil penalty up to, but not exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or diesel and a civil penalty up to, but not exceeding, \$1,500 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel within a 12-month period.

(8) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalties specified in subsection (2) or subsection (3). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is proved, the court may impose a civil penalty up to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of pollutants other than gasoline or diesel and a civil penalty up to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent discharge of pollutants other than gasoline or diesel within a 12-month period.

(9) At a hearing under this section, the commission of a charged offense must be proved by the greater weight of the evidence.

(10) A person who is found by a hearing official to have committed an infraction may appeal that finding to the circuit court.

(11) Any person who has not posted bond and who neither

pays the applicable civil penalty, as specified in subsection (2) or subsection (3) within 30 days of receipt of the citation nor appears before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12) Any person who makes or causes to be made a false statement that ~~which~~ the person does not believe to be true in response to requirements of ~~the provisions of~~ ss. 376.011-376.21 commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Paragraph (a) of subsection (6) of section 376.25, Florida Statutes, is amended to read:

376.25 Gambling vessels; registration; required and prohibited releases.—

(6) PENALTIES.—

(a) A person who violates this section is subject to a civil penalty of not more than \$75,000 ~~\$50,000~~ for each violation. Each day during any portion of which such violation occurs constitutes a separate offense.

Section 11. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1)(a) Any person who violates ~~any provision of~~ this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to

in s. 377.242(1) or to store gas in a natural gas storage facility, or any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or operator is subject to the judicial imposition of a civil penalty in an amount of not more than \$15,000 ~~\$10,000~~ for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. This section does not ~~Nothing herein shall~~ give the department the right to bring an action on behalf of any private person.

Section 12. Subsection (2) of section 378.211, Florida Statutes, is amended to read:

378.211 Violations; damages; penalties.—

(2) The department may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty

for violation of this part or of any rule adopted or order issued pursuant to this part. The penalty may ~~shall~~ not exceed the following amounts, and the court shall consider evidence in mitigation:

(a) For violations of a minor or technical nature, \$150 ~~\$100~~ per violation.

(b) For major violations by an operator on which a penalty has not been imposed under this paragraph during the previous 5 years, \$1,500 ~~\$1,000~~ per violation.

(c) For major violations not covered by paragraph (b), \$7,500 ~~\$5,000~~ per violation.

Subject to ~~the provisions of~~ subsection (4), each day or any portion thereof in which the violation continues shall constitute a separate violation.

Section 13. Subsection (2) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform shall be punishable by a civil penalty of \$750 ~~\$500~~ for each 24-hour day or fraction thereof that such failure is allowed to continue

CS/CS/HB 1091

2020

thereafter.

Section 14. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(1) Judicial remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than \$15,000 ~~\$10,000~~ per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), it is ~~shall~~ not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing before ~~prior to~~ the institution of a



CS/CS/HB 1091

2020

civil action.

(2) Administrative remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 shall be not less than \$1,000 per day per violation. The department may ~~shall~~ not impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in

426 a notice of violation. The department may ~~shall~~ not have more  
427 than one notice of violation seeking administrative penalties  
428 pending against the same party at the same time unless the  
429 violations occurred at a different site or the violations were  
430 discovered by the department subsequent to the filing of a  
431 previous notice of violation.

432 (c) An administrative proceeding shall be instituted by  
433 the department's serving of a written notice of violation upon  
434 the alleged violator by certified mail. If the department is  
435 unable to effect service by certified mail, the notice of  
436 violation may be hand delivered or personally served in  
437 accordance with chapter 48. The notice shall specify the  
438 ~~provision of the~~ law, rule, regulation, permit, certification,  
439 or order of the department alleged to be violated and the facts  
440 alleged to constitute a violation thereof. An order for  
441 corrective action, penalty assessment, or damages may be  
442 included with the notice. When the department is seeking to  
443 impose an administrative penalty for any violation by issuing a  
444 notice of violation, any corrective action needed to correct the  
445 violation or damages caused by the violation must be pursued in  
446 the notice of violation or they are waived. However, an ~~no~~ order  
447 is not ~~shall become~~ effective until after service and an  
448 administrative hearing, if requested within 20 days after  
449 service. Failure to request an administrative hearing within  
450 this time period constitutes ~~shall constitute~~ a waiver thereof,

451 unless the respondent files a written notice with the department  
452 within this time period opting out of the administrative process  
453 initiated by the department to impose administrative penalties.  
454 Any respondent choosing to opt out of the administrative process  
455 initiated by the department in an action that seeks the  
456 imposition of administrative penalties must file a written  
457 notice with the department within 20 days after service of the  
458 notice of violation opting out of the administrative process. A  
459 respondent's decision to opt out of the administrative process  
460 does not preclude the department from initiating a state court  
461 action seeking injunctive relief, damages, and the judicial  
462 imposition of civil penalties.

463 (d) If a person timely files a petition challenging a  
464 notice of violation, that person will thereafter be referred to  
465 as the respondent. The hearing requested by the respondent shall  
466 be held within 180 days after the department has referred the  
467 initial petition to the Division of Administrative Hearings  
468 unless the parties agree to a later date. The department has the  
469 burden of proving with the preponderance of the evidence that  
470 the respondent is responsible for the violation. ~~No~~  
471 Administrative penalties should not be imposed unless the  
472 department satisfies that burden. Following the close of the  
473 hearing, the administrative law judge shall issue a final order  
474 on all matters, including the imposition of an administrative  
475 penalty. When the department seeks to enforce that portion of a

476 final order imposing administrative penalties pursuant to s.  
477 120.69, the respondent may ~~shall~~ not assert as a defense the  
478 inappropriateness of the administrative remedy. The department  
479 retains its final-order authority in all administrative actions  
480 that do not request the imposition of administrative penalties.

481 (e) After filing a petition requesting a formal hearing in  
482 response to a notice of violation in which the department  
483 imposes an administrative penalty, a respondent may request that  
484 a private mediator be appointed to mediate the dispute by  
485 contacting the Florida Conflict Resolution Consortium within 10  
486 days after receipt of the initial order from the administrative  
487 law judge. The Florida Conflict Resolution Consortium shall pay  
488 all of the costs of the mediator and for up to 8 hours of the  
489 mediator's time per case at \$150 per hour. Upon notice from the  
490 respondent, the Florida Conflict Resolution Consortium shall  
491 provide to the respondent a panel of possible mediators from the  
492 area in which the hearing on the petition would be heard. The  
493 respondent shall select the mediator and notify the Florida  
494 Conflict Resolution Consortium of the selection within 15 days  
495 of receipt of the proposed panel of mediators. The Florida  
496 Conflict Resolution Consortium shall provide all of the  
497 administrative support for the mediation process. The mediation  
498 must be completed at least 15 days before the final hearing date  
499 set by the administrative law judge.

500 (f) In any administrative proceeding brought by the

CS/CS/HB 1091

2020

department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is ~~shall be~~ entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An ~~No~~ award of attorney's fees as provided by this subsection may not ~~shall~~ exceed \$15,000.

(g) This section does not prevent ~~Nothing herein shall be construed as preventing~~ any other legal or administrative action in accordance with law and does not. ~~Nothing in this subsection shall~~ limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of \$50,000 ~~\$10,000~~ for violations not specifically included in the administrative penalty schedule, or for multiple or multiday

violations alleged to exceed a total of \$50,000 ~~\$10,000~~. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in penalties may be settled in the court action for less than \$50,000 ~~\$10,000~~.

(h) Chapter 120 applies ~~shall apply~~ to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum Contaminant Level is exceeded by more than 100 percent. For

551 failure to obtain a clearance letter before ~~prior to~~ placing a  
552 drinking water system into service when the system would not  
553 have been eligible for clearance, the department shall assess a  
554 penalty of \$4,500 ~~\$3,000~~.

555 (b) For failure to obtain a required wastewater permit,  
556 other than a permit required for surface water discharge, the  
557 department shall assess a penalty of \$2,000 ~~\$1,000~~. For a  
558 domestic or industrial wastewater violation not involving a  
559 surface water or groundwater quality violation, the department  
560 shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or  
561 unauthorized discharge or effluent-limitation exceedance. For an  
562 unpermitted or unauthorized discharge or effluent-limitation  
563 exceedance that resulted in a surface water or groundwater  
564 quality violation, the department shall assess a penalty of  
565 \$10,000 ~~\$5,000~~. Each day the cause of an unauthorized discharge  
566 of domestic wastewater is not addressed constitutes a separate  
567 offense.

568 (c) For a dredge and fill or stormwater violation, the  
569 department shall assess a penalty of \$1,500 ~~\$1,000~~ for  
570 unpermitted or unauthorized dredging or filling or unauthorized  
571 construction of a stormwater management system against the  
572 person or persons responsible for the illegal dredging or  
573 filling, or unauthorized construction of a stormwater management  
574 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in  
575 an aquatic preserve, an Outstanding Florida Water, a

CS/CS/HB 1091

2020

576 conservation easement, or a Class I or Class II surface water,  
577 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
578 one-quarter acre but less than or equal to one-half acre, and  
579 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than  
580 one-half acre but less than or equal to one acre. The  
581 administrative penalty schedule does ~~shall~~ not apply to a dredge  
582 and fill violation if the area dredged or filled exceeds one  
583 acre. The department retains the authority to seek the judicial  
584 imposition of civil penalties for all dredge and fill violations  
585 involving more than one acre. The department shall assess a  
586 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required  
587 mitigation, failure to record a required conservation easement,  
588 or for a water quality violation resulting from dredging or  
589 filling activities, stormwater construction activities or  
590 failure of a stormwater treatment facility. For stormwater  
591 management systems serving less than 5 acres, the department  
592 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to  
593 properly or timely construct a stormwater management system. In  
594 addition to the penalties authorized in this subsection, the  
595 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation  
596 against the contractor or agent of the owner or tenant that  
597 conducts unpermitted or unauthorized dredging or filling. For  
598 purposes of this paragraph, the preparation or signing of a  
599 permit application by a person currently licensed under chapter  
600 471 to practice as a professional engineer does ~~shall~~ not make

Page 24 of 42

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1091-02-c2



that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does ~~shall~~ not make that person an agent of the owner or tenant.

(e) For solid waste violations, the department shall assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or unauthorized disposal or storage of solid waste; plus \$1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~ if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty

626 at the working face when accepting waste; or failure to provide  
627 access control for three consecutive inspections. The department  
628 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct  
629 or maintain a required stormwater management system.

630 (f) For an air emission violation, the department shall  
631 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or  
632 unauthorized air emission or an air-emission-permit exceedance,  
633 ~~plus \$1,000 if the emission results in an air quality violation,~~  
634 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and  
635 the source was major for the pollutant in violation; plus \$1,500  
636 ~~\$1,000~~ if the emission was more than 150 percent of the  
637 allowable level.

638 (g) For storage tank system and petroleum contamination  
639 violations, the department shall assess a penalty of \$7,500  
640 ~~\$5,000~~ for failure to empty a damaged storage system as  
641 necessary to ensure that a release does not occur until repairs  
642 to the storage system are completed; when a release has occurred  
643 from that storage tank system; for failure to timely recover  
644 free product; or for failure to conduct remediation or  
645 monitoring activities until a no-further-action or site-  
646 rehabilitation completion order has been issued. The department  
647 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely  
648 upgrade a storage tank system. The department shall assess a  
649 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain  
650 required release detection; failure to timely investigate a

suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), \$7,500 ~~\$5,000~~.

(b) For failure to install, maintain, or use a required pollution control system or device, \$6,000 ~~\$4,000~~.

(c) For failure to obtain a required permit before construction or modification, \$4,500 ~~\$3,000~~.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$3,000 ~~\$2,000~~.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, \$1,500 ~~\$1,000~~.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, \$750 ~~\$500~~.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of \$1,000 ~~\$500~~.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections ~~subsection~~ (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of \$3,000 ~~\$2,000~~ or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years before ~~prior to~~ the filing of the notice of violation will result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years before

CS/CS/HB 1091

2020

701 ~~prior to~~ the filing of the notice of violation will result in a  
702 50-percent per day increase in the scheduled administrative  
703 penalty.

704 (c) Three or more previous such violations within 5 years  
705 before ~~prior to~~ the filing of the notice of violation will  
706 result in a 100-percent per day increase in the scheduled  
707 administrative penalty.

708 (8) The direct economic benefit gained by the violator  
709 from the violation, where consideration of economic benefit is  
710 provided by Florida law or required by federal law as part of a  
711 federally delegated or approved program, shall be added to the  
712 scheduled administrative penalty. The total administrative  
713 penalty, including any economic benefit added to the scheduled  
714 administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

715 (9) The administrative penalties assessed for any  
716 particular violation may ~~shall~~ not exceed \$10,000 ~~\$5,000~~ against  
717 any one violator, unless the violator has a history of  
718 noncompliance, the economic benefit of the violation as  
719 described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are  
720 multiday violations. The total administrative penalties may  
721 ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all  
722 violations attributable to a specific person in the notice of  
723 violation.

724 (10) The administrative law judge may receive evidence in  
725 mitigation. The penalties identified in subsections ~~subsection~~

CS/CS/HB 1091

2020

726 (3), ~~subsection (4)~~, and ~~subsection (5)~~ may be reduced up to 50  
727 percent by the administrative law judge for mitigating  
728 circumstances, including good faith efforts to comply before  
729 ~~prior to~~ or after discovery of the violations by the department.  
730 Upon an affirmative finding that the violation was caused by  
731 circumstances beyond the reasonable control of the respondent  
732 and could not have been prevented by respondent's due diligence,  
733 the administrative law judge may further reduce the penalty.

734 (11) Penalties collected pursuant to this section shall be  
735 deposited into the Water Quality Assurance Trust Fund or other  
736 trust fund designated by statute and shall be used to fund the  
737 restoration of ecosystems, or polluted areas of the state, as  
738 defined by the department, to their condition before pollution  
739 occurred. The Florida Conflict Resolution Consortium may use a  
740 portion of the fund to administer the mediation process provided  
741 in paragraph (2)(e) and to contract with private mediators for  
742 administrative penalty cases.

743 (12) The purpose of the administrative penalty schedule  
744 and process is to provide a more predictable and efficient  
745 manner for individuals and businesses to resolve relatively  
746 minor environmental disputes. Subsections (3)-(7) may ~~Subsection~~  
747 ~~(3), subsection (4), subsection (5), subsection (6), or~~  
748 ~~subsection (7)~~ shall not be construed as limiting a state court  
749 in the assessment of damages. The administrative penalty  
750 schedule does not apply to the judicial imposition of civil

CS/CS/HB 1091

2020

penalties in state court as provided in this section.

Section 15. Subsection (1) of section 403.141, Florida Statutes, is amended to read:

403.141 Civil liability; joint and several liability.—

(1) A person who ~~Whoever~~ commits a violation specified in s. 403.161(1) is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than \$15,000 ~~\$10,000~~ per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. If a violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a separate offense until the violation is resolved by order or judgment. This section does not ~~Nothing herein shall~~ give the department the right to bring an action on behalf of any private person.

Section 16. Subsections (2) through (5) of section 403.161, Florida Statutes, are amended to read:

403.161 Prohibitions, violation, penalty, intent.—

Page 31 of 42

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1091-02-c2

776 (2) A person who ~~Whoever~~ commits a violation specified in  
777 subsection (1) is liable to the state for any damage caused and  
778 for civil penalties as provided in s. 403.141.

779 (3) A ~~Any~~ person who willfully commits a violation  
780 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of  
781 the third degree, punishable as provided in ss. 775.082(3)(e)  
782 and 775.083(1)(g) by a fine of not more than \$50,000 or by  
783 imprisonment for 5 years, or by both, for each offense. Each day  
784 during any portion of which such violation occurs constitutes a  
785 separate offense.

786 (4) A ~~Any~~ person who commits a violation specified in  
787 paragraph (1)(a) or paragraph (1)(b) due to reckless  
788 indifference or gross careless disregard commits ~~is guilty of~~ a  
789 misdemeanor of the second degree, punishable as provided in ss.  
790 775.082(4)(b) and 775.083(1)(g) by a fine of not more than  
791 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each  
792 offense.

793 (5) A ~~Any~~ person who willfully commits a violation  
794 specified in paragraph (1)(b) or who commits a violation  
795 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor  
796 of the first degree punishable as provided in ss. 775.082(4)(a)  
797 and 775.083(1)(g) by a fine of not more than \$10,000 or by 6  
798 months in jail, or by both for each offense.

799 Section 17. Paragraph (a) of subsection (6) of section  
800 403.413, Florida Statutes, is amended to read:



CS/CS/HB 1091

2020

403.413 Florida Litter Law.—

(6) PENALTIES; ENFORCEMENT.—

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes commits ~~is guilty~~ of a noncriminal infraction, punishable by a civil penalty of \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid Waste Management Trust Fund to be used for the solid waste management grant program pursuant to s. 403.7095. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

Section 18. Subsection (5) of section 403.7234, Florida Statutes, is amended to read:

403.7234 Small quantity generator notification and verification program.—

(5) Any small quantity generator who does not comply with the requirements of subsection (4) and who has received a notification and survey in person or through one certified letter from the county is subject to a fine of between \$75 ~~\$50~~ and \$150 ~~\$100~~ per day for a maximum of 100 days. The county may collect such fines and deposit them in its general revenue fund. Fines collected by the county shall be used to carry out the notification and verification procedure established in this section. If there are excess funds after the notification and verification procedures have been completed, such funds shall be

Page 33 of 42

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1091-02-c2

CS/CS/HB 1091

2020

used for hazardous and solid waste management purposes only.

Section 19. Subsection (3) of section 403.726, Florida Statutes, is amended to read:

403.726 Abatement of imminent hazard caused by hazardous substance.—

(3) An imminent hazard exists if any hazardous substance creates an immediate and substantial danger to human health, safety, or welfare or to the environment. The department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate an imminent hazard. However, the department is authorized to recover a civil penalty of not more than \$37,500 ~~\$25,000~~ for each day of continued violation. Whenever serious harm to human health, safety, and welfare; the environment; or private or public property may occur before ~~prior to~~ completion of an administrative hearing or other formal proceeding that which might be initiated to abate the risk of serious harm, the department may obtain, ex parte, an injunction without paying filing and service fees before ~~prior to~~ the filing and service of process.

Section 20. Paragraph (a) of subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

Page 34 of 42

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1091-02-c2

(a) Any person who violates ~~the provisions of~~ this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~ for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

Section 21. Subsection (8) of section 403.93345, Florida Statutes, is amended to read:

403.93345 Coral reef protection.—

(8) In addition to the compensation described in subsection (5), the department may assess, per occurrence, civil penalties according to the following schedule:

(a) For any anchoring of a vessel on a coral reef or for any other damage to a coral reef totaling less than or equal to an area of 1 square meter, \$225 ~~\$150~~, provided that a responsible party who has anchored a recreational vessel as defined in s. 327.02 which is lawfully registered or exempt from

876 registration pursuant to chapter 328 is issued, at least once, a  
877 warning letter in lieu of penalty; with aggravating  
878 circumstances, an additional \$225 ~~\$150~~; occurring within a state  
879 park or aquatic preserve, an additional \$225 ~~\$150~~.

880 (b) For damage totaling more than an area of 1 square  
881 meter but less than or equal to an area of 10 square meters,  
882 \$450 ~~\$300~~ per square meter; with aggravating circumstances, an  
883 additional \$450 ~~\$300~~ per square meter; occurring within a state  
884 park or aquatic preserve, an additional \$450 ~~\$300~~ per square  
885 meter.

886 (c) For damage exceeding an area of 10 square meters,  
887 \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,  
888 an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a  
889 state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per  
890 square meter.

891 (d) For a second violation, the total penalty may be  
892 doubled.

893 (e) For a third violation, the total penalty may be  
894 tripled.

895 (f) For any violation after a third violation, the total  
896 penalty may be quadrupled.

897 (g) The total of penalties levied may not exceed \$375,000  
898 ~~\$250,000~~ per occurrence.

899 Section 22. For the purpose of incorporating the amendment  
900 made by this act to s. 376.16, Florida Statutes, in a reference

CS/CS/HB 1091

2020

thereto, subsection (5) of s. 823.11, Florida Statutes, is reenacted to read:

823.11 Derelict vessels; relocation or removal; penalty.—

(5) A person, firm, or corporation violating this section commits a misdemeanor of the first degree and shall be punished as provided by law. A conviction under this section does not bar the assessment and collection of the civil penalty provided in s. 376.16 for violation of s. 376.15. The court having jurisdiction over the criminal offense, notwithstanding any jurisdictional limitations on the amount in controversy, may order the imposition of such civil penalty in addition to any sentence imposed for the first criminal offense.

Section 23. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, subsection (5) of section 403.077, Florida Statutes, is reenacted to read:

403.077 Public notification of pollution.—

(5) VIOLATIONS.—Failure to provide the notification required by subsection (2) shall subject the owner or operator to the civil penalties specified in s. 403.121.

Section 24. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, subsection (2) of section 403.131, Florida Statutes, is reenacted to read:

403.131 Injunctive relief, remedies.—

CS/CS/HB 1091

2020

(2) All the judicial and administrative remedies to recover damages and penalties in this section and s. 403.121 are alternative and mutually exclusive.

Section 25. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, paragraph (d) of subsection (3) of section 403.4154, Florida Statutes, is reenacted to read:

403.4154 Phosphogypsum management program.—

(3) ABATEMENT OF IMMINENT HAZARD.—

(d) If the department determines that the failure of an owner or operator to comply with department rules requiring demonstration of financial responsibility or that the physical condition, maintenance, operation, or closure of a phosphogypsum stack system poses an imminent hazard, the department shall request access to the property on which such stack system is located from the owner or operator of the stack system for the purposes of taking action to abate or substantially reduce the imminent hazard. If the department, after reasonable effort, is unable to timely obtain the necessary access to abate or substantially reduce the imminent hazard, the department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate or substantially reduce an imminent hazard. Whenever serious harm to human health, safety, or welfare, to the environment, or to private or public property may occur before ~~prior to~~ completion of an

CS/CS/HB 1091

2020

administrative hearing or other formal proceeding that might be initiated to abate the risk of serious harm, the department may obtain from the court, *ex parte*, an injunction without paying filing and service fees before ~~prior to~~ the filing and service of process.

Section 26. For the purpose of incorporating the amendment made by this act to section 403.121, Florida Statutes, in a reference thereto, subsection (5) of section 403.860, Florida Statutes, is reenacted to read:

403.860 Penalties and remedies.—

(5) In addition to any judicial or administrative remedy authorized by this part, the department or a county health department that has received approval by the department pursuant to s. 403.862(1)(c) shall assess administrative penalties for violations of this section in accordance with s. 403.121.

Section 27. For the purpose of incorporating the amendment made by this act to section 403.141, Florida Statutes, in a reference thereto, subsection (10) of section 403.708, Florida Statutes, is reenacted to read:

403.708 Prohibition; penalty.—

(10) Violations of this part or rules, regulations, permits, or orders issued thereunder by the department and violations of approved local programs of counties or municipalities or rules, regulations, or orders issued thereunder are punishable by a civil penalty as provided in s.

CS/CS/HB 1091

2020

976 403.141.

977 Section 28. For the purpose of incorporating the amendment  
978 made by this act to section 403.141, Florida Statutes, in a  
979 reference thereto, subsection (7) of section 403.7191, Florida  
980 Statutes, is reenacted to read:

981 403.7191 Toxics in packaging.—

982 (7) ENFORCEMENT.—It is unlawful for any person to:

983 (a) Violate any provision of this section or any rule  
984 adopted or order issued thereunder by the department.

985 (b) Tender for sale to a purchaser any package, packaging  
986 component, or packaged product in violation of this section or  
987 any rule adopted or order issued thereunder.

988 (c) Furnish a certificate of compliance with respect to  
989 any package or packaging component which does not comply with  
990 the provisions of subsection (3).

991 (d) Provide a certificate of compliance that contains  
992 false information.

993  
994 Violations shall be punishable by a civil penalty as provided in  
995 s. 403.141.

996 Section 29. For the purpose of incorporating the amendment  
997 made by this act to section 403.141, Florida Statutes, in a  
998 reference thereto, section 403.811, Florida Statutes, is  
999 reenacted to read:

1000 403.811 Dredge and fill permits issued pursuant to this

Page 40 of 42

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1091-02-c2



CS/CS/HB 1091

2020

chapter and s. 373.414.—Permits or other orders addressing dredging and filling in, on, or over waters of the state issued pursuant to this chapter or s. 373.414(9) before the effective date of rules adopted under s. 373.414(9) and permits or other orders issued in accordance with s. 373.414(13), (14), (15), or (16) shall remain valid through the duration specified in the permit or order, unless revoked by the agency issuing the permit. The agency issuing the permit or other order may seek to enjoin the violation of, or to enforce compliance with, the permit or other order as provided in ss. 403.121, 403.131, 403.141, and 403.161. A violation of a permit or other order addressing dredging or filling issued pursuant to this chapter is punishable by a civil penalty as provided in s. 403.141 or a criminal penalty as provided in s. 403.161.

Section 30. For the purpose of incorporating the amendments made by this act to sections 403.141 and 403.161, Florida Statutes, in references thereto, subsection (8) of section 403.7186, Florida Statutes, is reenacted to read:

403.7186 Environmentally sound management of mercury-containing devices and lamps.—

(8) CIVIL PENALTY.—A person who engages in any act or practice declared in this section to be prohibited or unlawful, or who violates any of the rules of the department promulgated under this section, is liable to the state for any damage caused and for civil penalties in accordance with s. 403.141. The

CS/CS/HB 1091

2020

provisions of s. 403.161 are not applicable to this section. The penalty may be waived if the person previously has taken appropriate corrective action to remedy the actual damages, if any, caused by the unlawful act or practice or rule violation. A civil penalty so collected shall accrue to the state and shall be deposited as received into the Solid Waste Management Trust Fund for the purposes specified in paragraph (5)(a).

Section 31. For the purpose of incorporating the amendment made by this act to section 403.161, Florida Statutes, in a reference thereto, subsection (2) of section 403.7255, Florida Statutes, is reenacted to read:

403.7255 Placement of signs.—

(2) Violations of this act are punishable as provided in s. 403.161(4).

Section 32. This act shall take effect July 1, 2020.